



## **Nebraska Sales and Use Tax MANUFACTURING MACHINERY AND EQUIPMENT (MME)**

**Fall 2012**

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## **Today's Agenda**

1. Overview of Sales and Use Tax
2. What is "Manufacturing"?
3. Manufacturing Machinery and Equipment (MME)
  - A. Repair of MME
  - B. Warranties and Guarantees
  - C. Taxable Machinery & Equipment
  - D. Other Taxable Items
  - E. Dual Use of MME
  - F. Documenting Exempt Purchases
4. Contractor Issues
5. Water & Energy Source Utility Exemption

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# 1.

## Overview of Sales and Use Tax

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### 1. Overview of Sales and Use Tax

- What is a sales transaction?
  - Sales tax is calculated on the **gross receipts**.
  - **Delivery location** determines the rate of local tax.
  - Retailers must **collect and report sales tax or document** why they didn't.
- What is use tax?

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### 1. What is a Sales Transaction?

A SALE is

- the transfer of title or possession,
- of an item or taxable service,
- for consideration.

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### 1. Sales Transaction (continued)

SALES TAX is

- a transactional tax,
- based on the transaction,
- rather than the item sold.

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## **1. Sales Transaction** (continued)

A **SALE** includes transfer of these digital goods:

- Books;
- Downloading songs & ringtones;
- Movies, music, music videos, & TV shows; and
- Prepaid phone cards.

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## **The Bottom Line For Sales Tax**

**Sellers must collect sales tax  
– OR –  
document why they did not.**

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## **1. What is Use Tax?**

- Use tax is due when Nebraska sales tax has not been paid on a taxable item or service purchased for use in Nebraska.
- Sales and use tax are **not BOTH due** on the same transaction.
- The big difference is **who** remits the tax -
  - **Sales tax** is collected and remitted by the **seller**.
  - **Use tax** is paid directly to the Department by the **purchaser/consumer**.

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## **1. Use Tax** (continued)

Use tax and sales tax have these things in common -

- They are imposed on the same transactions.
- They have the same exemptions.
- They are calculated at the same rate.
  - Where delivery occurs
  - OR
  - Where first usage in Nebraska takes place.

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## 1. Use Tax (continued)

- Often due when purchases are made from an **out-of-state seller**
  - Internet, catalog, mail order
  - Magazines and journals by subscription
- **Use tax is due** when the business withdraws **tax-free inventory** for business or personal use (including donations)
  - Auto mechanic
  - Hair salon

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## 2.

## What is “Manufacturing?”

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## 2. What is “Manufacturing?”

### Manufacturing is...

performing any action or series of actions on tangible personal property – by hand or machine – resulting in the property being reduced or transformed into a different:

- state
- quality
- form
- property
- thing

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## 2. What is “manufacturing?” (continued)

Manufacturing **does not** include:

- Document shredding
- Mining
- Bottling
- Sorting
- Retail operations
- Generation or transmission of electricity
- Production or transmission of information or data
- Preparation of food for immediate consumption
- Purification or transportation of water
- Commercial agricultural operations or support of those operations

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### 3. Manufacturing Machinery & Equipment (MME)

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### 3. Manufacturing Machinery & Equipment (MME)

MME is machinery or equipment:

- Used in manufacturing; and
- Purchased by a person or entity engaged in the business of manufacturing.

MME can be purchased **sales tax exempt**.

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### 3. MME (continued)

Machinery and equipment is **exempt from sales and use taxes** when **BOTH** these criteria have been met:

1. More of the manufacturer's total annual revenue is from sales of tangible personal property they manufacture than from any other business activity;
- AND**
2. The machinery and equipment is used more than 50% of the time in manufacturing.

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### 3. MME (continued)

**Machinery and equipment is tax exempt when it is (1-6):**

1. Used to produce, fabricate, assemble, process, finish, refine, or package tangible personal property;

Examples –

- **Drill press used to manufacture shelving and cabinets**
- **Extrusion mold used to produce rigid Styrofoam to ship cabinets**

*more...*

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### **3. MME** (continued)

2. Used to transport, convey, handle, or store the manufactured goods or raw materials;

Examples –

- **Forklift used to off load raw materials, or used to move finished product throughout facility**
- **Shelving used to store raw materials or the finished product**

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### **3. MME** (continued)

3. Used to maintain the integrity of the manufactured products, or unique environmental conditions for the products or MME itself;

Examples –

- **Humidifier used to maintain paper quality in a paper plant**
- **Freezer used by an ice cream manufacturer**

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### **3. MME** (continued)

4. Used to test or measure the product, the manufacturing process, or the quality of the finished products;

Example –

- **Incubator used to determine bacteria level in manufactured meat product**

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### **3. MME** (continued)

5. Computers, software (and related training), and related peripheral equipment used to guide, control, operate, or measure the manufacturing process.

Example –

- **Computer hardware and software used to direct robotic assembly line equipment to attach a rivet at a particular point**

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### **3. MME** (continued)

6. The MME is not required to actually “touch” or work on the item being manufactured in order to qualify for the exemption.

Examples –

- Boilers used by manufacturers to produce steam essential to the manufacturing process
- Equipment used to make a necessary catalyst
- Molds, dies, and materials necessary to create them for use in manufacturing the finished product or its packaging
- Component parts used to create self-constructed equipment
- Replacement parts
- Repair labor charges
- Installation and maintenance services

*more...*

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### **3. MME** (continued)

## **Repair of MME**

Manufacturers may purchase parts and labor to repair MME sales tax exempt.

Examples –

- Motor for a drill press
- Grease or other lubricants to keep the drill press running
- Repair labor

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### **3. MME** (continued)

## **Warranties And Guarantees**

Sales of warranties and guarantees that cover exempt MME are also sales tax exempt.

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### **3. MME** (continued)

## **Taxable Machinery & Equipment**

Examples –

- Tools powered by hand
- Security equipment
- Safety equipment
- Repair shop equipment
- Cleaning equipment
- Licensable motor vehicles and trailers
- Equipment used in retail operations
- Office equipment used for research and development
- Office equipment, including computers and software

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### 3. MME (continued)

#### Other Taxable Items

Items necessary to the production of a product that are not considered MME.

Examples –

- Catalyst - a catalyst is a chemical that causes or facilitates a reaction without becoming a part of the resulting chemical compound
- Cutting oil used on a drill press to cut holes in the manufactured product

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### 3. MME (continued)

#### Dual Use of MME

MME that is used BOTH for manufacturing and for other purposes is exempt when **MORE THAN 50%** of its total use is for manufacturing.

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### 3. MME (continued)

#### Documenting Exempt Purchases

Manufacturers must give a properly completed Form 13, Section B, Category 5 to their Nebraska vendors.

Nebraska Department of REVENUE		Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption		FORM 13	
<small>• Read instructions on reverse side/see note below</small>					
NAME AND MAILING ADDRESS OF PURCHASER		NAME AND MAILING ADDRESS OF SELLER			
Name		Name			
Street or Other Mailing Address		Street or Other Mailing Address			
City State Zip Code		City State Zip Code			
Check Type of Certificate					
<input type="checkbox"/> Single Purchase <input type="checkbox"/> Blanket If blanket is checked, this certificate is valid until revoked in writing by the purchaser					
I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:					
Check One <input type="checkbox"/> Purchase for Resale (Complete Section A) <input type="checkbox"/> Exempt Purchase (Complete Section B) <input type="checkbox"/> Contractor (Complete Section C)					
SECTION B—Nebraska Exempt Sale Certificate					
The basis for this exemption is exemption category (Insert appropriate category as described on reverse of this form.)					
If exemption category 2 or 5 is claimed, enter the following information:					
Description of Item(s) Purchased			Intended Use of Item(s) Purchased		
If exemption categories 3 or 4 are claimed, enter the Nebraska Exemption Certificate number: 05 -					
If exemption category 6 is claimed, seller must enter the following information and sign this form below:					
Description of Item(s) Sold		Date of Seller's Original Purchase		Was Tax Paid when Purchased by Seller?	
				<input type="checkbox"/> YES <input type="checkbox"/> NO	
				Was Item Depreciable?	
				<input type="checkbox"/> YES <input type="checkbox"/> NO	

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## 4. Contractor Issues

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## 4. Contractor Issues

- Contractors may purchase and annex MME to real property, or repair MME that is annexed.
- The MME and repair parts purchased and annexed by a contractor are **taxed** according to the Contractor Option chosen.
- **Charges for contractor labor are not taxable.**

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## Option 1 Contractor

### ➤ Transactions with the Supplier

- Can purchase MME or repair parts **sales tax exempt for resale.**
- Must give Nebraska supplier a properly completed Form 13, Section C, Block 1.

### ➤ Transactions with the Manufacturer

- **Does NOT collect sales tax** on any portion of the invoice.
- Must obtain a properly completed Form 13, Section B, Category 5 from the manufacturer.

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## Option 2 Contractor

### ➤ Transactions with the Supplier

- **Pays sales or use tax** on its purchase of MME and repair parts for the MME.

### ➤ Transactions with the Manufacturer

- **Does NOT collect sales tax** on any portion of the invoice. Cannot accept a Form 13.

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## Option 3 Contractor

### ➤ Transactions with the Supplier


- Buys MME or repair parts **sales tax exempt.**
- Must give Nebraska supplier a properly completed Form 13, Section C, Block 1.

### ➤ Transactions with the Manufacturer

- Must **remit use tax** at the rate in effect at the time and place of withdrawal of MME or repair parts from inventory.
- **Does NOT collect sales tax** on any portion of the invoice. Cannot accept a Form 13.

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## Form 13, Section C

 <b>Nebraska Resale or Exempt Sale Certificate</b> for Sales Tax Exemption <small>• Read instructions on reverse side/see note below</small>		FORM <b>13</b>
NAME AND MAILING ADDRESS OF PURCHASER Name _____ Street or Other Mailing Address _____ City _____ State _____ Zip Code _____		NAME AND MAILING ADDRESS OF SELLER Name _____ Street or Other Mailing Address _____ City _____ State _____ Zip Code _____
Check Type of Certificate <input type="checkbox"/> Single Purchase <input type="checkbox"/> Blanket    If blanket is checked, this certificate is valid until revoked in writing by the purchaser. I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason: Check One <input type="checkbox"/> Purchase for Resale (Complete Section A) <input type="checkbox"/> Exempt Purchase (Complete Section B) <input type="checkbox"/> Contractor (Complete Section C)		
<b>SECTION C—For Contractors Only</b> <b>1. Purchases of Building Materials or Fixtures:</b> <input type="checkbox"/> As an Option 1 or Option 3 contractor, I hereby certify that purchases of building materials and fixtures from the above seller are exempt from Nebraska sales tax. My Nebraska Sales or Consumer's Use Tax Permit Number is: _____ 01.		
<b>2. Purchases Made Under Purchasing Agent Appointment on behalf of _____:</b> <small>(exempt entity)</small> <input type="checkbox"/> Pursuant to an attached Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17, I hereby certify that purchases of building materials, and fixtures are exempt from Nebraska sales tax.		

For more detailed information, refer to the [Form 13 instructions](#).

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## 4. Contractor Issues (continued)

**PLEASE NOTE:** MME does **NOT** include items that are an integral part of a building.

Examples –

- **Foundation for a specific piece of MME**
- **Electrical wiring from the electrical panel to the shutoff box for the MME**

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## 4. Contractor Issues (continued)

### Contractors As Manufacturers

- Contractors are manufacturers when **more** of their annual revenue is from items they manufacture and sell, but are not required to annex.
- When contractors are considered manufacturers, they may purchase MME **sales tax exempt**.

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## Contractors as Manufacturers (continued)

Example –

A cabinet maker with 55% of annual revenue from sale of cabinets that he is not required to annex, purchases a drill press to make cabinets.

The cabinet maker is a manufacturer and may purchase the drill press **sales tax exempt**.

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## 5. Water & Energy Source Utility Exemption

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## 5. Water Exemption


- **Sales tax is not due** when **more than 90%** of the water billed through a single meter is used for one of the following exempt purposes:
  - Irrigation of agricultural lands
  - Manufacturing
  - Care of animals whose products we eat or wear

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## 5. Energy Source Utility Exemption

- **Sales tax is not due** when **more than 50%** of a qualified energy source is used for an exempt purpose:
  - Generation of electricity
  - Irrigation or farming
  - Processing or manufacturing
  - Refining
  - Use by any hospital
- Use Form 13E, Nebraska Energy Source Exempt Sale Certificate

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**Nebraska Energy Source Exempt Sale Certificate**

**FORM 13E**

NAME AND MAILING ADDRESS OF PURCHASER		NAME AND MAILING ADDRESS OF SELLER	
Name _____		Name _____	
Street or Other Mailing Address _____		Street or Other Mailing Address _____	
City _____	State _____ Zip Code _____	City _____	State _____ Zip Code _____
Check Type of Certificate: <input type="checkbox"/> Single Purchase <input type="checkbox"/> Blanket <small>If Blanket is checked, this certificate is valid until revoked in writing by the purchaser.</small>			
Purchaser's Account Number _____		Was an energy audit (analysis) completed prior to issuing this certificate to the seller? <input type="checkbox"/> YES <input type="checkbox"/> NO	
Describe your business operations: _____			
<div style="margin-top: 10px;"> <input type="checkbox"/> A. Our purchase of electricity or compressed natural gas is exempt from Nebraska sales and use tax because more than 50 percent of the energy charge through meter number(s) _____ has been properly determined to be used or directly consumed in: (check appropriate box)           <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div><input type="checkbox"/> Manufacturing and Processing</div> <div><input type="checkbox"/> Farming</div> <div><input type="checkbox"/> Generation of Electricity</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div><input type="checkbox"/> Irrigation</div> <div><input type="checkbox"/> Refining</div> </div> </div> <div style="margin-top: 10px;"> <input type="checkbox"/> B. Our purchase of coal, fuel oil, diesel fuel, tractor fuel, coke, nuclear fuel, butane, propane, or gas is exempt from Nebraska sales and use tax because more than 50 percent of the amount purchased is used or directly consumed in: (check appropriate box)           <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div><input type="checkbox"/> Manufacturing and Processing</div> <div><input type="checkbox"/> Farming</div> <div><input type="checkbox"/> Generation of Electricity</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div><input type="checkbox"/> Irrigation</div> <div><input type="checkbox"/> Refining</div> </div> </div>			
Any purchaser, or the agent thereof, or other person who completes this certificate for any purchase which is not otherwise exempted from the sales and use tax under the Nebraska Revenue Act, as amended, shall in addition to any tax, interest, or penalty otherwise imposed, be subject to a penalty of \$100.00 or ten times the tax, whichever amount is larger, for each instance of presentation and misuse. With regard to a blanket certificate, said penalty shall apply to each purchase made during the period the blanket certificate is in effect. Under the penalties of law, I declare that I am authorized to sign this certificate, and to the best of my knowledge and belief, it is correct and complete.			
sign here _____ <small>Authorized Signature of Purchaser</small>		_____ <small>Title</small>	
_____ <small>Date Issued</small>		_____ <small>Date Issued</small>	
NOTE: Sellers must keep this certificate as part of their records. Do not send it to the Nebraska Department of Revenue.			

Form 13E

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## Summary of Purchases by Manufacturers

Recognize **what is taxable** and know how to document **what is not taxable**:

- **MME Equipment Exemption** Form 13, Section B
- **Other Equipment** **(Taxable)**
- **Component/Ingredient** Form 13, Section A
- **Supply Items** **(Taxable)**
- **Energy Source Exemption** Form 13E
- **Water Exemption** Form 13, Section B

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*For more information on MME, refer to:*

*Sales and Use Tax Regulation 1-012.02D(33);  
Revenue Ruling 01-05-1; and  
Revenue Ruling 01-08-2  
at [www.revenue.ne.gov](http://www.revenue.ne.gov).*

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**THANK YOU!**

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